

House Bill 1452

By: Representative Shaw of the 176<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 33-9-21 of the Official Code of Georgia Annotated, relating to  
2 maintenance and filing rates, rating plans, rating systems, or underwriting rules, so as to  
3 provide for the ability of insurers to file and use personal private passenger motor vehicle  
4 insurance rates under certain circumstances; to provide that the Commissioner of Insurance  
5 may suspend a rate filing of an insurer under certain circumstances; to provide for related  
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 33-9-21 of the Official Code of Georgia Annotated, relating to maintenance  
10 and filing rates, rating plans, rating systems, or underwriting rules, is amended by striking  
11 subsections (b), (c), and (e) and inserting in lieu thereof new subsections (b), (c), and (e) to  
12 read as follows:

13 "(b)(1) Any domestic, foreign, or alien insurer that is authorized to write insurance in this  
14 state must file with the Commissioner any rate, rating plan, rating system, or underwriting  
15 rule for all personal private passenger motor vehicle insurance.

16 (2) Except as provided in paragraph (3) of this subsection, no ~~No~~ such rate, rating plan,  
17 rating system, or underwriting rule will become effective, nor may any premium be  
18 collected by any insurer thereunder, unless the filing has been received by the  
19 Commissioner in his or her office and such filing has been approved by the  
20 Commissioner or a period of 45 days has elapsed from the date such filing was received  
21 by the Commissioner during which time such filing has not been disapproved by the  
22 Commissioner. The Commissioner shall be authorized to extend such 45 day period by  
23 no more than 55 days at his or her discretion. If a filing is disapproved, notice of such  
24 disapproval order shall be given within 100 days of receipt of filing by the  
25 Commissioner, specifying in what respects such filing fails to meet the requirements of  
26 this chapter. The filer shall be given a hearing upon written request made within 30 days

1 after the issuance of the disapproval order, and such hearing shall commence within 30  
 2 days after such request unless postponed by mutual consent. Such hearing, once  
 3 commenced, may be postponed or recessed by the Commissioner only for weekends,  
 4 holidays, or after normal working hours or at any time by mutual consent of all parties  
 5 to the hearing. The Commissioner may also, at his or her discretion, recess any hearing  
 6 for not more than two recess periods of up to 15 consecutive days each. In connection  
 7 with any hearing or judicial review with respect to the approval or disapproval of such  
 8 rates, the burden of persuasion shall fall upon the affected insurer or insurers to establish  
 9 that the challenged rates are adequate, not excessive, and not unfairly discriminatory.  
 10 After such a hearing, the Commissioner must affirm, modify, or reverse his or her  
 11 previous action within the time period provided in subsection (a) of Code Section 33-2-23  
 12 relative to orders of the Commissioner. The requirement of approval or disapproval of  
 13 a rate filing by the Commissioner under this subsection shall not prohibit actions by the  
 14 Commissioner regarding compliance of such rate filing with the requirements of Code  
 15 Section 33-9-4 brought after such approval or disapproval.

16 (3) If a rate filing for personal private motor vehicle insurance does not result in an  
 17 overall increase or decrease of 5 percent or more and the insurer has not filed any rate  
 18 filing within the preceding 12 months or if a rate filing for personal private motor vehicle  
 19 insurance when taken together with any other rate filing by the insurer in the preceding  
 20 12 months does not result in an overall increase or decrease of 5 percent or more in the  
 21 aggregate, the rate filing shall become effective upon filing. The Commissioner may  
 22 suspend such rate filing if the Commissioner, upon notice to the insurer and after a  
 23 hearing, finds that such rate filing is unfairly discriminatory, is not actuarially supported,  
 24 is based upon fictitious groupings, or is excessive. The burden of demonstrating that such  
 25 rate filing is unfairly discriminatory, is not actuarially supported, is based upon fictitious  
 26 groupings, or is excessive shall be on the Commissioner. The insurer may appeal any  
 27 such finding in the same manner as for other administrative hearings.

28 (c) ~~When~~ Except as provided in paragraph (3) of subsection (b) of this Code section, when  
 29 a rate filing of an insurer required under subsection (b) of this Code section is not  
 30 accompanied by the information upon which the insurer supports the filing and the  
 31 Commissioner does not have sufficient information to determine whether the filing meets  
 32 the requirements of this chapter, then the Commissioner must request in writing, within 20  
 33 days of the date he or she receives the filing, the specifics of such additional information  
 34 as he or she requires and the insurer shall be required to furnish such information and in  
 35 such event the 45 day period provided for in subsection (b) of this Code section shall  
 36 commence as of the date such information is furnished."

1 "(e) When a rate filing of an insurer required under subsection (d) of this Code section  
 2 results in any overall rate increase of 10 percent or more within any 12 month period, the  
 3 Commissioner shall order an examination of that insurer to determine the accuracy of the  
 4 claim reserves, the applicability of the claim reserve practices for the loss data used in  
 5 support of such filing, and any other component of the rate filing; provided, however, that  
 6 in the event the overall increase is less than 25 percent within any 12 month period and the  
 7 Commissioner affirmatively determines that he or she has sufficient information to evaluate  
 8 such rate increase and that the cost thereof would not be justified, he or she may waive all  
 9 or part of such examination. In all other rate filings required under subsection (d) of this  
 10 Code section, the Commissioner may order an examination of that insurer as provided in  
 11 this subsection. Such examination shall be conducted in accordance with the provisions  
 12 of Chapter 2 of this title. ~~Upon notification by the Commissioner of his or her intent to~~  
 13 ~~conduct such examination, the insurer shall be prohibited from placing the rates so filed in~~  
 14 ~~effect until such examination has been reviewed and certified by the Commissioner as~~  
 15 ~~being complete. Such examination, if conducted by the Commissioner, shall be reviewed~~  
 16 ~~and certified within 90 days of the date such rate, rating plan, rating system, or~~  
 17 ~~underwriting rule is filed; provided, however, if the Commissioner makes an affirmative~~  
 18 ~~finding that the examination may not be completed within the 90 day period, he or she may~~  
 19 ~~extend such time for one additional 60 day period. Any examination required under this~~  
 20 ~~Code section shall be conducted in accordance with Chapter 2 of this title. The~~  
 21 ~~Commissioner may suspend such rate filing if the Commissioner, upon notice to the insurer~~  
 22 ~~and after a hearing, finds that such rate filing is unfairly discriminatory, is not actuarially~~  
 23 ~~supported, is based upon fictitious groupings, or is excessive. The burden of demonstrating~~  
 24 ~~that such rate filing is unfairly discriminatory, is not actuarially supported, is based upon~~  
 25 ~~fictitious groupings, or is excessive shall be on the Commissioner. The insurer may appeal~~  
 26 ~~any such finding in the same manner as for other administrative hearings.~~"

27

## SECTION 2.

28 All laws and parts of laws in conflict with this Act are repealed.